PRESIDENT'S MESSAGE


Joseph Strasburg

With the U.S. Supreme Court now reviewing whether to hear our case challenging the constitutionality of aspects of New York's rent laws, now is a good time to revisit what's happening, what the case is about and – as importantly – what it's not about.

Stabilized building and apartment owners are private providers of a public benefit. That's not just us saying it – the highest court in New York, the Court of Appeals - decided that years ago.

Once something is a public benefit, the logical next question is "who provides it?" You know the answer to that question. You provide it.

And in this public benefit scheme, which the government is not providing, the regulations are so severe and so unreasonable that they have become what is called a regulatory taking. The regulations about what you cannot do with your property have wrecked viable possible economic use of it.

We also allege actual physical takings. Apartments for family members – children or parents who need help, are not available. Conversions to co-ops or condos have been raised to an impossible threshold. Owners are being told what they can and can't do with their property.

As the saying goes, you can be judged by the company you keep. If that's true, then we're in good company.

The U.S. Chamber of Commerce filed a brief in support of our case being heard. Building owners from California filed in support of our case. The CATO Institute, which is among the country's leading voices for common sense moderation concerning property rights, filed a brief in support of our case being heard. A preeminent legal scholar and professor specializing in regulatory takings filed a compelling brief with the court in our favor. The Real Estate Board of New York filed a brief supporting our case as did the New York State Association of Realtors. The National Apartment Association submitted in favor of our case being heard and so did the Small Property Owners of New York. The Institute for Justice, another leading voice in property rights, filed a brief in support of our petition to be heard. The California Business Roundtable joined us. So did the Minnesota Multi Housing Association.

All of which is to say that our case is being taken seriously by serious people.

There's another saying, which you've probably heard, that one can also be judged by what your enemies say about you. If that's also true, then our opposition in this case is worried. They do not want this case heard by the Supreme Court.

The papers filed against the Supreme Court hearing our case try to strike a balance between being dismissive of our claims and applying cases that the Supreme Court itself has updated. What our opposition – the city and state – do in their papers is use old rules in a new situation.

So, if our opposition is too dismissive, then the court might be offended and take case. If our opposition is too weighty in their responses, then the court will agree that this is a pressing matter that needs to be heard.

Our filings point out that the lower courts which ruled against us did so inaccurately because the Supreme Court itself has refined its thinking about takings in recent decisions. We also point out that there is a diversity of legal opinions throughout the country on this vial matter that require clarification.

What our opposition is left with is fearmongering and scare tactics. They insist that our case is about wanting mass evictions. They insist that our case will result in leases ending and people being forced out of their apartments.

They are wrong.

They are playing politics with false accusations while we are discussing law and policy.

They are making up stories while we are trying to make balanced laws.

They are uncertain in their arguments while we are a unified industry voice.

Our opposition isn't presenting any serious arguments against Supreme Court review of New York's flawed and unconstitutional Rent Stabilization Law. That is not surprising: the portions we are challenging are unconstitutional based on clear Supreme Court precedent and the injuries inflicted by those provisions are clearly described in the complaint.

If the Supreme Court takes this case, and agrees with us, the result will be appropriate guardrails on how far the government can intrude when rental agreements end. Without them, every state is at risk of facing the same never-ending housing emergency as New York, with no real relief for tenants or creation of new housing.

The Supreme Court can prevent the government from implementing irrational rent regulations that rely on placing unconstitutional burdens on private owners by forcing them to provide a public benefit that isn't means tested. That has always been our ultimate goal - the betterment of housing affordability and availability in New York and the rest of the country. ■

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